

1 Q. All right. So you don't know?

2 A. I don't know.

3 Q. You've got your deposition transcript
4 in front of you, don't you; it's part of that binder?

5 A. I do.

6 Q. I'm going to have the transcript
7 marked as an exhibit.

8 (Defendants' Exhibit B was marked for
9 identification.)

10 Q. Sir, if you would -- just the
11 transcript, not the letter -- can you identify
12 Defendants' Exhibit B?

13 A. It appears to be a photocopy of a
14 copy of my deposition taken in the matter of Bigelow
15 versus Burbrink in my office on January 8th, 2002.

16 Q. All right. And that testimony was
17 truthful, based upon the best of your knowledge?

18 A. To the best of my knowledge,
19 information, and belief.

20 Q. Okay. And look at page 25 for me,
21 would you? I want to direct your attention to Line
22 19. You say, "In my experience when there is equity
23 in the property in this community, that is in Hamilton
24 County, the sellers of distressed property that's in

1 foreclosure are inundated with solicitations from
2 various real estate speculators to acquire the
3 property." Do you see that language?

4 A. I see it.

5 Q. Now, was Mr. Curtis inundated with
6 solicitations as you've described there?

7 MR. BLESSING: Now, give him a time
8 line and don't -- give him a true time line of the
9 foreclosure.

10 A. Well, it doesn't matter, 'cause
11 I don't have any knowledge of what -- and he's
12 suggesting your question's objectionable, because he
13 doesn't know the time line.

14 Q. Well, then, let him object to it.

15 A. But I -- pardon me?

16 Q. Let him object to it.

17 A. All right. I'm suggesting that --

18 Q. I'm talking about at the time --

19 A. I have no knowledge.

20 Q. So you don't know whether that
21 statement that you've made there applies to Mr. and
22 Mrs. Curtis or not, correct?

23 A. My experience is correctly stated
24 here. Whether or not that experience applies to

1 Mr. Curtis or not is not known to me. But I do know
2 that this transaction is typically -- excuse me --
3 the approach in this transaction by somebody
4 interested in acquiring a property is not uncommon.
5 What happened here is uncommon.

6 Q. When Ms. Christian went to the Curtis
7 residence with this contract, do you know whether or
8 not the sheriff's sale was scheduled?

9 A. No.

10 Q. And do you know whether or not
11 Mr. Curtis was presented with any other options to
12 avoid a sheriff's sale, other than the option that
13 was presented to him by Ms. Christian?

14 A. Let me retreat from that last answer.
15 I don't know -- the answer is correct, but it needs
16 amplification. The fact that the court costs were
17 only \$206 -- according to the closing statement --
18 suggests to me that the sheriff's sale was not yet
19 scheduled, and the reason I say that is because the
20 cost would have been higher. There would have been
21 an appraisal cost, a publication cost. It would have
22 been higher than \$206.

23 Q. Okay.

24 A. Now, the answer to your next question

1 is no.

2 Q. All right. Now, you also talked
3 in the Burbrink deposition about the equities of
4 redemption?

5 A. I talked about two equities of --

6 Q. Yeah. Judicial and statutory, right?

7 A. Correct.

8 Q. So assuming that the sheriff's sale
9 hadn't occurred in the Curtis -- or hadn't been
10 scheduled -- let's just assume that in the Curtis
11 situation -- so which of those equities of redemption
12 would apply in that situation?

13 A. Both.

14 Q. All right.

15 A. It wouldn't have mattered whether the
16 sheriff's sale was scheduled or not.

17 Q. Okay.

18 A. You know, the criteria would have
19 been the confirmation of the sheriff's sale, not the
20 scheduling.

21 Q. Okay. But in order to exercise an
22 equity of redemption, the rights of the homeowner,
23 what do they have to do?

24 A. Which equity are you referring to?

1 Q. You pick.

2 A. Well, in order to exercise the
3 statutory right, they have to pay the amount of
4 judgment and court costs in full to the sheriff.

5 Q. Okay. That would be after the
6 judgment?

7 A. It would be after the judgment and
8 through -- up until, but not through the confirmation
9 of the sheriff's sale.

10 Q. All right. And then prior to
11 judgment, which statutory -- which equity of
12 redemption applies?

13 A. Actually, there's a third equity of
14 redemption that applies. They can -- most of my
15 experience is in the context of mortgages. The
16 statute provides for a slightly dissimilar procedure
17 with regard to a tax sale.

18 Q. All right.

19 A. But in any event, with regard to --
20 do you want me to expand on tax sales, or do you want
21 me to --

22 Q. Not really. Let me see if I
23 can save us some time. Whatever the equities of
24 redemption, if there are three, do they involve

1 payment of money --

2 A. Yes.

3 Q. -- by the homeowner?

4 A. Yes.

5 Q. And did the Curtises have the ability
6 to pay that money?

7 A. Yes.

8 Q. They did?

9 A. Yes.

10 Q. And what are you basing that
11 information on?

12 A. My experience. They could have --
13 as I say in this deposition, they could have mortgaged
14 the property or sold the property, and typically
15 that's how -- typically, a mortgage borrower, or for
16 that matter a taxpayer who can't pay the taxes or the
17 mortgage, as the case may be -- can't write a check to
18 redeem, any more than I assume the Curtises could, or
19 any more than I assume the Curtises could have paid
20 -- written a check for \$37,000, but they can preserve
21 their equity or substantially all of their equity by
22 refinancing or selling the property for fair value,
23 and that's what they typically do.

24 Q. All right. Well, in the Curtis's

1 financial situation, did they have the ability at
2 the time they signed that contract, did they have
3 the ability to satisfy -- to exercise the equity of
4 redemption without getting some sort of third-party
5 financing?

6 A. I don't know.

7 Q. Okay. You don't know anything about
8 their financial situation, do you?

9 A. That's correct. I can make some
10 assumptions, based on the fact that they're in a tax
11 foreclosure, and based on the fact that they entered
12 into this transaction.

13 Q. Right. Doesn't that lead you to
14 believe that their finances were limited?

15 A. No matter how limited, my experience
16 suggests that you don't sell -- even people in
17 distress situations don't sell a 75 or a hundred
18 thousand dollar property for \$15,000 without an
19 expectation of something else.

20 (Defendants' Exhibit C was marked for
21 identification.)

22 Q. Sir, I want to show you what's been
23 marked for identification as Exhibit C. Can you
24 identify that, please?

1 A. It appears to be a copy of a contract
2 to purchase dated August 2 or 21.

3 Q. Two.

4 A. I can't tell which; 1999 -- similar
5 to the copy which I examined.

6 Q. Well, is there any difference between
7 the copy that you got and this?

8 A. No substantial difference, no.
9 I mean, one's a little lighter than the other, but
10 they appear to be copies of the same contract.

11 Q. Was it your understanding that the
12 Curtises agreed to pay \$350 a month to Mr. Bigelow?

13 A. Yes.

14 Q. And did the Curtises comply with that
15 contract term?

16 A. My information is that they only did
17 for two months.

18 Q. So your answer would be that the
19 Curtises did not comply with the terms of that
20 contract, correct?

21 A. I don't know what happened after the
22 two months -- or what didn't happen.

23 Q. Well, it doesn't say, "Pay \$350 a
24 month for only two months," does it?

1 A. I only know -- I've seen two checks,
2 so my supposition is that they paid two months.
3 I have not seen more checks, so I make no supposition.

4 Q. All right. So it's your
5 understanding that they only paid for two months?

6 A. I only know about -- I only have
7 information that they paid for two months.

8 Q. And did Mr. Bigelow comply with the
9 terms of this contract?

10 A. I didn't see a lease option or the
11 functional equivalent being a land contract executed
12 by Mr. Bigelow, so I didn't see \$10,000 in cash going
13 to the buyer at the closing, so in those two respects,
14 I know he did not.

15 with respect to the repairs of the porch
16 and roof, I'm told that he made limited repairs, but
17 that's all my information.

18 Q. All right. And that seller to lease
19 option property, that's something that's supposed
20 to happen after the contract to purchase was executed?

21 A. I would assume -- no, I would assume
22 that, yes, but I would assume that it would happen at
23 the closing. That would be the normal situation.

24 Q. All right. We've already discussed

1 what you know about why or why not a lease wasn't
2 entered into. We've talked about that, haven't we;
3 everything you know about it?

4 A. Well, I told you earlier, I would --
5 notwithstanding what you suggested, it would have been
6 my expectation that there would have been a signed
7 document -- in this case a land contract -- because
8 that's what Mr. and Mrs. Curtis paid for, but -- some
9 signed document, a land contract, or lease option, or
10 something to suggest their equity in it is preserved.

11 Q. Uh-huh. You're familiar, aren't you,
12 with forcible entry and detainer law in Ohio?

13 A. Generally.

14 Q. And are you familiar with the options
15 available to tenants that are named in eviction suits?

16 A. I think so.

17 Q. All right. A tenant who is named in
18 an eviction suit has an option to deposit rent with
19 the Court, don't they?

20 A. I think they do.

21 Q. Right. And they're advised of that
22 by the Court, aren't they, in a notice that's sent to
23 them?

24 A. That, I don't know.

1 Q. Okay, in the summons and documents
2 that are sent along with the complaint?

3 A. I can't answer that question.

4 Q. Okay. But you understand they do
5 have an option to deposit rent with the Court?

6 A. Yes, I do understand that.

7 Q. And isn't it your understanding that
8 if a tenant does deposit rent with the Court, that it
9 prevents an eviction during the pendency of the case?

10 A. It may or may not, depending on what
11 is the issue in the case.

12 Q. I'm talking about an eviction.

13 A. Yeah, but evictions aren't all for
14 money. I can evict you for other reasons -- if you're
15 my tenant -- for other reasons than money, and you're
16 paying -- and I can decline to accept rent and you can
17 pay the money to the Court, and I'll still recover the
18 property, if I have other reasons for the eviction.

19 Let me give you a simple example,
20 all right? We enter into -- you rent an apartment
21 or a house from me on a month-to-month basis with no
22 written documents, and I decide that I want the --
23 arbitrarily that I want the property for \$500 a month,
24 let's say, and I decide that I want the property --

1 the house or the apartment back, all right?

2 And so I serve you with an appropriate
3 eviction notice, a three-day notice, and I say,
4 "Owner desires possession of property," and you say,
5 "Well, here's my rent for next month," and I say,
6 "I don't want your rent for next month," and three
7 days later, or four days later, I file an eviction --

8 Q. Okay.

9 A. -- and the sheriff serves you,
10 and you tender the \$500 into court, you'll still be
11 evicted. That will not be a defense.

12 Q. So are you telling me that a tenant
13 who's named as a defendant -- let's just say it's an
14 eviction suit, no other claims --

15 A. That's what I'm talking about. You
16 postulated a forcible entry and detainer.

17 Q. Right.

18 A. It's a statutory procedure.

19 Q. Right. Are you telling me that a
20 tenant who's named as a defendant in an eviction suit
21 doesn't have the option to deposit their rent in court
22 to avoid being evicted?

23 A. Well, I said, depending on the facts,
24 yes.

1 Q. All right. Well, let's talk
2 about Mr. Curtis's case. Mr. Curtis was named as
3 a defendant in an eviction case.

4 A. Right.

5 Q. You understand that, right?

6 A. Right. I've been told that.

7 Q. Okay. If Mr. Curtis would have
8 tendered and deposited his \$350 per month into court,
9 could he have prevented being evicted?

10 A. I don't know. I haven't seen the
11 pleading.

12 MR. BLESSING: Gary -- off the record.

13 (Off-the-record discussion.)

14 (Lunch break was taken.)

15 [Reporter's Note: Mr. McKay was not present for
16 the conclusion of the deposition.]

17 BY MR. LEWIS:

18 Q. I would like to mark your binder as
19 an exhibit.

20 MR. BLESSING: Can we go make a copy,
21 or --

22 MR. LEWIS: We'll substitute a copy,
23 absolutely.

24 Q. You don't mind if we put an exhibit

1 sticker on this, do you?

2 A. That's fine.

3 (Defendants' Exhibit D was marked for
4 identification.)

5 Q. Okay, Mr. Lerner, I've shown you
6 what's been marked as Exhibit D, and, for the record,
7 tell us what that is.

8 A. This is a notebook.

9 Q. And that's the notebook that we've
10 previously discussed, right?

11 A. Correct.

12 Q. And that's the binder where I went
13 through and we talked about all the documents that are
14 in there?

15 A. Correct. I think we did, too.

16 THE WITNESS: On the record: Can you
17 gentlemen agree to substitute a photocopy for this
18 Exhibit D, and let me keep the original?

19 MR. LEWIS: Yes.

20 THE WITNESS: Thank you.

21 MR. LEWIS: Absolutely.

22 THE WITNESS: Thank you.

23 MR. LEWIS: We'll just have to work out
24 the mechanics of doing that.

1 THE WITNESS: I don't need it right now.

2 MR. LEWIS: Yeah. We can give the
3 court reporter the original, and then we'll have a
4 photocopy made, and the original will go back to
5 Mr. Blessing to be returned to you, and the substitute
6 photocopy. Okay?

7 THE WITNESS: Thank you.

8 MR. LEWIS: All right.

9 (Defendants' Exhibit E was marked for
10 identification.)

11 BY MR. LEWIS:

12 Q. Sir, and if you would, please,
13 identify Exhibit E.

14 A. Exhibit E appears to be a settlement
15 statement for the property at 1966 Fairfax dated
16 August 25, 1999.

17 Q. Okay. And that's the settlement
18 statement that you've alluded to before in your
19 testimony today, right?

20 A. It appears to be a copy of the same
21 document, which I examined a copy.

22 Q. We've already discussed the issue
23 of Meckstroth charging the Curtises for preparation
24 of the land contract, so we don't need to talk about

1 that. Are there any other charges to the Curtises on
2 here that you feel are inappropriate?

3 A. I can't speak with certainty
4 about that, because I don't know the circumstance,
5 but charging \$150 for a deed and an affidavit --
6 I haven't seen the affidavit, so I'm reluctant to
7 express a definitive opinion on that -- but it seems
8 -- but nothing material. There's an issue about
9 charging \$595 and change for a tax proration under
10 the circumstances of this case, but, again, I'm not
11 prepared to say that that's inappropriate, and I can't
12 verify. The other numbers appear to be in line, but
13 I can't verify them. I do observe that the net, as
14 it appears on this statement, is \$98,171 and change --

15 Q. Right.

16 A. -- but based on other documents,
17 which I have looked at and we've discussed, I've
18 learned that the buyers actually -- excuse me --
19 the Curtises, the sellers, actually got \$295 less
20 than that amount, because, in addition to the \$295,
21 which appears on this statement, is a charge for
22 attorney fees by Mr. Meckstroth, to the purchaser,
23 which is identified on the next page as Mr. Bigelow
24 Trustee. In addition to that \$295, there was

1 an additional \$295 charged to the sellers, the
2 Curtises --

3 Q. Right.

4 A. -- so they received about \$9500
5 instead of \$10,000.

6 Q. So they've received the 98,171
7 less the 295 for preparation of the land contract,
8 right?

9 A. That's correct. Mr. Meckstroth
10 collected \$295, according to this statement, from
11 Mr. Bigelow, and another \$295 -- not according to this
12 statement --

13 Q. Uh-huh.

14 A. -- but according to other documents
15 that I've seen from Mr. and Mrs. Curtis.

16 Q. Well, do you think the \$295 charge to
17 Bigelow is inappropriate?

18 A. Well, I think that that's not
19 inappropriate.

20 Q. It's not?

21 A. I think it's not. Neither one of
22 those charges alone is not inappropriate, but in the
23 context, it appears there's a dual representation,
24 and we could have a discussion about that.

1 Q. Right, right, right. I think we
2 already did.

3 A. Perhaps. I don't think we've had a
4 complete discussion on that. I don't think -- I don't
5 think a dual representation is appropriate without
6 some disclosures, and, under the circumstances,
7 I would have had something in writing. I have no
8 reason to believe that the Curtises understood the
9 issue.

10 Q. All right. In your opinion, did the
11 charging by Meckstroth for the land contract, did that
12 in and of itself create a dual representation?

13 A. Under these circumstances, yes.
14 Let me amplify that. Under the circumstances of an
15 attorney conducting a real estate closing, almost --
16 but it would be clear to point out not quite -- has
17 a fiduciary relationship to the parties, because it
18 is perceived, in my experience by unsophisticated
19 parties, that the attorney is a neutral party, who
20 is representing all the parties. That's not correct.

21 Q. I'm sorry. Say that again.

22 A. My experience suggests that an
23 attorney conducting a real estate closing is perceived
24 by the parties to be representing everybody and be

1 kind of a neutral third party, and therefore, it is
2 appropriate, in my opinion, for such an attorney to
3 make a disclosure if that's not the case.

4 If no disclosure is made, then I think
5 there's an issue, but in this case it goes beyond
6 that. In this case we've got charges to both the
7 buyer and the seller, and nothing -- at least that
8 I know about, and certainly nothing in writing that
9 I know about -- that suggests to anybody, including
10 the Curtises, that there isn't a conflict of interest,
11 and that, in my mind, is a problem.

12 Q. All right. And that problem,
13 though, that's a problem that was created, in your
14 mind, by Mr. Meckstroth, correct?

15 A. Correct, correct. And, you know,
16 it's part of the same problem that I suggested when
17 I talked about it before --

18 Q. Right.

19 A. -- about the land contract not
20 getting executed and recorded.

21 Q. Okay. And so in your view, did
22 Mr. Meckstroth have any interest in this transaction,
23 other than the fees that are reflected on this
24 settlement statement, and the \$295 that he got from

1 the Curtises?

2 A. Yes.

3 Q. What was his interest?

4 A. I think there's a course of dealing
5 with Mr. Bigelow and his associates, and I think
6 Meckstroth had a vested interest in having these
7 transactions conclude in the manner, which I perceive
8 to be inappropriate, that they did conclude.

9 Q. And the vested interest was a
10 continuing relationship with Bigelow?

11 A. I have no -- yes, I know of no other.
12 There may have been some other, but I don't know of
13 it.

14 Q. All right. In your view, based on
15 your understanding, was the relationship between
16 Bigelow and Meckstroth, was there anything more than
17 an attorney/client relationship there?

18 A. Based on the information that I have
19 directly, I can't say that with certainty, but to be
20 this far off, on a series of transactions, creates a
21 concern on my part.

22 Q. Okay. It creates a concern, but
23 do you have any information to indicate that the
24 relationship between Meckstroth and Bigelow, on any

1 transaction that you've looked at, was anything more
2 than attorney/client?

3 A. Well, I think that I have this
4 concern, because it's so far off the mark. I mean,
5 as I said earlier, the contract says they get \$10,000,
6 and they got 9500, and the contract says that they're
7 going to -- it would lead somebody, such as the
8 Curtises, and perhaps even myself, to believe that
9 they were going to get some kind of a documentable
10 interest in this property; that they're going to
11 retain -- this is in my view of financing transactions
12 -- that they're going to retain the equity in a
13 property, and that, in my mind, mandates that the land
14 contract be executed and recorded, or some functional
15 equivalent, and I don't perceive that the survival of
16 the purchase contract to be a functional equivalent.

17 Q. Okay.

18 A. If it were, then it would need to be
19 recorded --

20 Q. All right.

21 A. -- and Meckstroth should have
22 apprised the Curtises of that. All of that is so far
23 off the mark of what I think should have happened,
24 and it happens with regularity, that it suggests

1 Meckstroth's an interested party, to me.

2 Q. Meckstroth is an interested party --

3 A. Beyond --

4 Q. -- in the transactions?

5 A. Well, no, that he has -- that he has
6 a strong interest, at a minimum, in perpetuating this
7 relationship.

8 Q. And the relationship is an
9 attorney/client relationship, isn't it?

10 A. I told you before, I don't know of
11 any more.

12 Q. Okay, that's what I'm asking you.
13 Do you know of anything more than the attorney/client
14 relationship?

15 A. It's a red flag. I don't know any
16 more, but my antenna's up.

17 Q. All right. Anything else about this
18 settlement statement that's irregular to you?

19 A. The form is unusual, but there's
20 nothing really wrong with it. It's just not --
21 typically, lawyers these days use the HUD-1 form, and
22 this is a different form. I think it's bad practice
23 not to identify the parties on the first page rather,
24 but I can't say, definitively, that something's wrong,

1 or I can suggest that it's not good, but, you know,
2 it's not -- I wouldn't put it off.

3 Q. How come it's not good?

4 A. Because without identifying --
5 you know, without having some identification of the
6 parties on the first page, it's so easy to substitute
7 pages.

8 Q. well, you're not suggesting that the
9 pages --

10 A. No, no.

11 Q. -- were substituted, are you?

12 A. Like I said, I think it's bad
13 practice, but it's adequate.

14 Q. Okay.

15 A. I have no reason to believe that this
16 doesn't reflect the economics of what happened that
17 day.

18 Q. All right. It identifies the
19 property on the top --

20 A. Correct.

21 Q. -- so it would be tough to substitute
22 pages.

23 (Defendants' Exhibit F was marked for
24 identification.)

1 Q. Mr. Lerner, if you would, please,
2 look at Exhibit -- what do you have in front of you?
3 Is that F?

4 A. Yes. It's Defendants' F.

5 Q. Would you identify those for the
6 record?

7 A. This is a record of the time
8 that I've devoted to this enterprise on behalf of
9 Mr. Blessing.

10 Q. All right. And does this reflect all
11 of the time you spent on this case, prior to today?

12 A. Substantially all. I may have --
13 you know, I didn't record nominal things, like
14 e-mails.

15 Q. Uh-huh. Now, were these time entries
16 made contemporaneously, or after the fact?

17 A. They were made contemporaneously, but
18 recorded on this piece of paper from earlier records.

19 Q. I see. What is it you have; time
20 sheets or something that you --

21 A. Yeah.

22 Q. Okay.

23 A. This isn't the original record, but
24 it's an accurate --

1 Q. I understand. You took this
2 information off your time sheets?

3 A. Correct.

4 Q. It would have other clients reflected
5 on --

6 A. This sheet, no, but --

7 Q. Well, that's what I mean; your time
8 sheets.

9 A. The time sheet, no. There's a
10 separate time sheet, but I don't have it here.

11 Q. Okay. This is an accurate reflection
12 of --

13 A. This is accurate --

14 Q. Thank you.

15 A. -- except, you know, I probably never
16 intended to include nominal engagements that aren't
17 reflected here.

18 Q. All right. Can you tell me, under
19 Ohio law, what type of property interest a buyer
20 acquires under a land contract?

21 A. Yes.

22 Q. Please do.

23 A. A buyer acquires an equitable
24 interest in the property -- well, a land contract

1 vendee has an equitable interest in the property.

2 It's the same as from a legal interest.

3 Q. Okay. And what do you mean by
4 equitable interest?

5 MR. BLESSING: Equity 101.

6 A. Yeah. I could give you a book.

7 Q. I don't want a book. Can't you
8 just --

9 A. The equitable interest is a real
10 interest in the property as distinguished from a
11 legal interest in the property. He doesn't hold
12 legal title --

13 Q. All right.

14 A. -- but he has some viable claim
15 against the property --

16 Q. Okay.

17 A. -- he or she, or both.

18 Q. And this equitable interest, is it
19 -- at some point does it become important when that
20 -- well, strike that. Can a buyer forfeit the
21 equitable interest that they have under a land
22 contract?

23 A. Under some circumstances, certainly.

24 Q. Okay. And please tell me under what

1 circumstances.

2 A. well, there are a number of ways --
3 well, first of all, a land contract is one of many
4 ways in which one acquires an equitable interest in
5 property, so we're -- I'm going to just focus on a
6 land contract.

7 Q. A land contract?

8 A. Right. And by -- Step 1: A default
9 by the buyer under the terms of the land contract,
10 which may or may not be of monetary default.

11 Q. All right.

12 A. Step 2: It depends upon the equities
13 in the property and the age of the contract.

14 Q. All right.

15 A. If the contract is -- if there's
16 very limited equity in the property and if the
17 contract is young, then there is a summary procedure
18 under the Ohio statutory scheme, which, incidentally,
19 I drafted --

20 Q. You did?

21 A. Yeah. Not the current version;
22 the original version.

23 Q. Okay.

24 A. -- that permits the land contract

1 vendor to obtain a forfeiture of the equitable
2 interest in municipal court --

3 Q. Right.

4 A. -- and the proceedings much akin to a
5 forcible entry and detainer.

6 Q. Okay. And it's my understanding
7 -- and you've got the statutes in your binder, I saw
8 them --

9 A. Right.

10 Q. -- it's my understanding that this
11 time period that you were talking about is five
12 years --

13 A. Correct.

14 Q. -- is that correct?

15 A. Correct.

16 Q. And equity interest that you were
17 talking about was 20 percent?

18 A. Correct.

19 Q. So is it accurate that until a buyer
20 under a land contract either has made payments for
21 five years or has paid 20 percent of the purchase
22 price, that this equity interest you were talking
23 about could be forfeited if they defaulted?

24 A. Yeah, that's what the statute says,

1 but I -- that's not the way it would be interpreted in
2 this case because of the discrepancy -- because this
3 is a financing transaction. The discrepancy between
4 the purchase price and the real value, according
5 to my information, is so great, that it is a
6 transparent financing device, and therefore I believe
7 that a court would conclude -- and you're correct in
8 the statute -- but I believe that a court would
9 conclude that this contract was not amenable to the
10 summary forfeiture provisions of the statute.

11 Q. You're talking about the land
12 contract that was never signed?

13 A. Correct. We were talking about a
14 hypothetical land contract.

15 Q. Well, actually, we're talking
16 about the law, having to do with land contract, and
17 that's what I --

18 A. Well, yeah, but we have to relate
19 it to a land contract, and according to your view,
20 there wasn't any land contract here. There was a
21 piece of paper that was never signed.

22 Q. Say that according to my view again,
23 would you?

24 A. According to your view, there was

1 never a contract. There was a piece of paper, which
2 was not a contract because it was not executed.
3 Your view, as I understand it, is there was never --
4 there was no land contract. There was discussion of
5 a land contract, there was a draft of a land contract,
6 but in order to have a contract, you have to have a
7 meeting of minds, and, in this case, because it's real
8 estate and for some other reasons --

9 Q. Right.

10 A. -- you have to have a piece of paper
11 that's signed by both parties.

12 Q. So that's your view too, isn't it,
13 that a land contract wasn't signed?

14 A. Yeah, that's why I described it as a
15 hypothetical.

16 Q. All right.

17 A. We're talking about this
18 hypothetical. We're not talking about -- we're not
19 talking about these facts.

20 Q. All right. Let's just talk about
21 Ohio law for a minute --

22 A. Sure.

23 Q. -- okay? I want to get back to --
24 so, we're in agreement that under Ohio law, if a buyer